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09/744,595	01/26/2001	Kojiro Okamoto	740819-416	1644

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EXAMINER

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2627

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/744,595
Filing Date: January 26, 2001
Appellant(s): OKAMOTO ET AL.

MAILED
JAN 24 2007
Technology Center 2600

John F. Guay
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/23/2006 appealing from the Office action mailed 01/07/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The appellant's statement recites that the examiner indicated in the advisory action issued on April 6, 2006 that the amendment to claim 29 would be entered for purposes of appeal, but he did not indicate would overcome the section 112 rejection.

The disagreement is because the examiner indicated in the advisory action issued on April 6, 2006 that the amendment to claim 29 will be entered for purposes of appeal and has been entered. The rejection of claim 29 under section 112 is not pending, because the examiner in the advisory action indicated that that the amendment to claim 29 will be entered for purposes of appeal and provided the explanation on how the new amended claims were rejected. The examiner in the provided explanation did not include any rejection under section 112.

Art Unit: 2627

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

The ground of rejections under section 112 is no longer considered applicable.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Appellant's admitted prior art.

5,060,219	Lockhoff et al.	10-1991
5,930,210	Timmermans et al.	07-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. Claim 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appellant's admitted prior art in combination with Lokhoff et al. U.S. Patent No. 5,060,219 and further in view of Timmermans et al. U.S. Patent No. 5,930,210.

The admitted prior art discloses a disk-shaped recording medium comprising a primary recording region for recording a data signal based on a user instruction and

and a secondary recording region which is located on the side of an internal periphery of said primary recording region, wherein in said primary recording region the data signal is recorded, and wherein said secondary recording region has information pits formed to record signal representative of primary control information as data (see page 1, line 20 to page 2 lines 11);

wherein said primary control information in said secondary recording region includes an invalid key information item/"genuine control information"/ for inhibiting reproduction of main data encrypted in said primary recording region by using "secondary control information"/ "control information including key information item and identification information item" illegally recorded in said primary recording region (se page 2, line 3- 20)

said "secondary control information" comprising information for decrypting said main data encrypted in said primary recording region (see page 1, line 25-26 and page 2, lines 9-14)

The admitted prior art fails to disclose wherein said primary recording region has a track which wobbles at a first pitch and wherein said secondary recording region has a track which

wobbles at a second pitch different from said first pitch, and the reproduction apparatus for reproduction as recited in claim 29.

Lokhoff et al. discloses a disk-shaped recording medium (See col. 6, lines 20-22) comprising:
a primary recording region (See Fig. 3a, 3e),
and a secondary recording region which is located on the side of an internal periphery of said primary recording region (See Fig. 3a, 3c),

wherein said primary recording region has a track which wobbles at a first pitch/frequency and along which a user is able to record a data signal (See col. 6, lines 33-35; Fig. 3a, 3e);

and wherein said secondary recording region has a track which wobbles at a second pitch/frequency different from said first pitch/frequency and along information pits are formed to record signal representative of control information as data (See col. 2, lines 50-58; col. 6, lines 20-35, lines 56-63; Fig. 3a, 3c, 3e).

Lokhoff et al. teaches using the "pitch/frequencies/wobbles/sinusoidal undulation" of the track for the first and second recording regions to determine the position of the track to be scanned. Lokhoff et al. further teaches wherein the control information in said secondary recording region is for inhibit/disabling/enabling/ operations indicated by the control information being read from the recording medium (See col. 1, lines 40-55; col. 2, lines 50-58).

Timmermans et al, teaches a reproducing system having a recording medium which includes a tracks having which wobbles at predetermined a pitch/frequency along information pits are formed to record data signal (see col. 6, lines 12-56; Fig. 1a-1b), and a reproducing apparatus for reproduction of main data recorded in said primary recording region of said recording medium

Art Unit: 2627

(See Timmermans et al. col. 5, lines 13-25; Figs. 1a, 1b, 1c, 3, 5), said reproducing apparatus comprising:

a pickup for reading a signal from said recording medium under rotation (See Timmermans et al. col. 5, lines 30-34; Fig. 5, Ref# 52),

means for shifting said pickup (See Timmermans et al. col. 5, line 53 to col. 6, line 1-56; Fig. 5 Ref# 60),

means for distinguishing if a reproduction location of said recording medium is the track which wobbles as said first pitch or the track which wobbles at said second pitch different from said first pitch (See Timmermans et al. col. 5, line 53 to col. 6, line 1-56; Fig. 5 Ref# 60);

a controller (44) connected to said pickup, said shifting means and said distinguishing means, wherein at a time when said reproducing apparatus is initially actuated to reproduce said data signal from a track, said controller determines whether said track wobbles at said first pitch and if so, shifts said pickup until said track wobbles at said second pitch, whereupon said primary control information in said secondary recording region is first reproduced, and the reproduction of main data encrypted in said primary recording region by using secondary control information recorded in said primary recording region is inhibited by the invalid key information item included in said primary control information in said secondary recording region (See Timmermans et al. col. 5, line 53 to col. 6, line 1-56; Fig. 5 Ref# 60); (See Timmermans et al. col. 6, line 45 to col. 7, line 21; Fig. 5, Ref# 61, 62; only reproducing the track with the predetermined pitch/frequency, recovering the genuine control information in the secondary region of the admitted prior art R disk),

It would have been obvious to one with ordinary skill in the art at the time of the invention to provide the primary recording region with a track which wobbles at a first pitch/frequency and the secondary recording region with a track which wobbles at a second pitch/frequency different from said first pitch, because by doing that provides detection of position of the region and track portion to be reproduced/scanned as taught by Lokhoff et al., and further enabling recovering/reproducing of the tracks having a predetermined pitch/frequency and that in the case of the absence of the predetermined pitch/frequency the recovery/reproduction is disable as taught by Timmermans et al, by doing so it would disable the recovery/reproduction of the “secondary control information illegally recorded/not genuine information” in the primary recording region and enabling reproduction/recovering of the genuine control information in the secondary recording region.

(10) Response to Argument

Appellant argues that claim 29 is patentable over each cited reference. In response to appellant’s arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In this case the rejection is claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over appellant’s admitted prior art in combination with Lokhoff et al. further in view of Timmermans et al.

Appellant also argues that the combination of the references is no properly combinable and whether there is no teaching, suggestion or motivation to combine.

The examiner respectfully disagrees with the Appellant because the examiner properly shows the nexus between the references as follows.

In regard to the claimed feature relating the recording medium, Appellant's admitted prior art teach a primary recording region and a secondary recording region which is located on the side of an internal periphery of said primary recording region, the primary control information in said secondary recording region includes an invalid key information item for inhibiting reproduction of main data encrypted in said primary recording region.

Lokhoff et al. teach and suggest having a primary recording region and a secondary recording region which is located on the side of an internal periphery of said primary recording region, and where said primary recording region has a track which wobbles at a first pitch/frequency where said secondary recording region has a track which wobbles at a second pitch/frequency different from said first pitch/frequency recorded with signal representative of control information.

In regard to the feature claimed relating the specifics of a reproducing apparatus, Timmermans et al., teach such specifics of the detection and position of the recording regions and track portions to be reproduced by detecting wobbles at pitch/frequency, enabling recovering/reproducing of the tracks having a predetermined wobbles pitch/frequency and that in the case of the absence of the predetermined pitch/frequency the recovery/reproduction is disable.

First, in response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In this case, at least Appellants admitted prior art teaches that is possible to take other countermeasures against unauthorized copying. For example at the time of the manufacture of an R disk, invalid key information is recorded in a secondary recording region of that R disk and identification information indicating that the disk concerned is not a RUM disk but an R disk is recorded also in the secondary recording region which is read first at the time of seeking for the of such secondary recording region to be reproduced first. Lokhoff et al. suggest how to have the disk structure recording regions with specific wobbles at pitch/frequency feature, because by doing so, it would provide the detection and position of the primary and secondary recording regions and track portion to be reproduced by detecting such wobbles at pitch/frequency, and Timmermans et al. specifically teach and suggest such specifics of an apparatus to reproduce such recording medium enabling recovering/reproducing of the tracks having a predetermined wobbles pitch/frequency and that in the case of the absence of the predetermined pitch/frequency the recovery/reproduction is disable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 2627

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

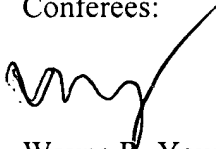
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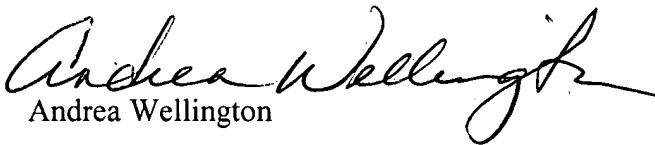
Jorge L. Ortiz-Criado

Patent Examiner AU 2627

Conferees:



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